IN THE HIGH COURT OF UTTARAKHAND ATNAINITAL

Writ Petition No. 3226 of 2001 (MS)
(Old CMWP No. 29219 of 1996)

1. State of U.P. through Up Van Sanrakshak Dehradun Van Prabhag 5- Tilak Road, Dehradun.
2. Mukhya Van Sanrakashak Garhwal Mandal Dilaram Bazar, Dehradun.

…… Petitioners.

Versus

1. Rajendra Singh through Sri Virendra Bhandari (Seetu) Local Bus Stand, Dehradun.
2. Labour Court, Dehradun.

….. Respondents.

Sri N.P.Sah learned Standing Counsel & Sri Gopal Narain Srivastava, learned Brief Holder for the petitioner-State.
None appeared for the respondent no.1 despite sufficient service.

Dated May 08, 2007.

Hon'ble B.S. Verma, J.

This writ petition has been preferred to issue a writ, order or direction in the nature of certiorari quashing the impugned award dated 16-8-1995 (Annexure No.1) passed by the respondent no.2 whereby the workman Rajendra Singh was ordered to be re-instated in service with 50% back wages and Rs. 500/- as costs of proceedings.

Brief facts, giving rise to the present writ petition, are that the workman Rajendra Singh was employed under the employment of petitioner as *Chowkidar* since September 1985 and he continued in service till 5-7-1993, but from 6-7-1993 he was terminated from service without any notice or retrenchment compensation. Therefore, the dispute was referred for adjudication to the Labour Court. The dispute was whether the termination of service of Sri Rajendra Singh from 6-7-1993 by the employer was unjustified and illegal. If so, to what relief is the concerned workman is entitled to get. Notices were issued to both the parties.

The case of the workman was that he had been terminated from service illegally without prior notice and compensation and workmen junior to him are still in employment. The employer has contended that the workman was employed since 1985 to 6-7-1993 with break intermittently and on cessation of work and for want of funds, he was terminated.

The learned labour court after hearing both the parties and assessing the evidence on record came to the conclusion that the workman had worked for more than 240 days in one calendar year, and ultimately, holding the termination of service illegal, the workman was ordered to be reinstated with 50% back wages and Rs. 500/- as costs.

The impugned award has been assailed mainly on the ground that the workman was engaged on muster roll as daily wager for carrying out extra load of work and that the case of the respondent workman was not covered under Section 6-N of the Industrial Disputes Act, therefore, the impugned award is wholly illegal.

I have heard learned counsel for the petitioner-State and perused the record including the impugned award.

The petitioner has filed its reply before the learned Labour Court, copy of which is annexed as Annexure No.3. In this reply, it has nowhere been asserted by the petitioner that the workman was engaged in employment for a period less than 240 days in a calendar year. From a bare perusal of the chart (Annexure No. 4 to the writ petition) showing the number of days in each year when the workman was in employment, it is clear that the workman was engaged in work for a continuous period of more than 240 days in each complete year. The finding of the learned Labour Court that the workman was entitled to the benefit of Section 6-N of the

Industrial Disputes Act does not call for any interference in the facts and circumstances of the case.

In view of the discussion above, I do not find any perversity or illegality in the impugned award. The writ petition is devoid of merit and is liable to be dismissed at the threshold.

The writ petition is dismissed in limine.

The interim order dated 21-1-1997 is vacated.

All applications stand disposed of.

(B.S.Verma, J.)

RCP